

# HOUSE RESEARCH

## Bill Summary

**FILE NUMBER:** H.F. 947  
**Version:** First engrossment

**DATE:** March 12, 2013

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**Subject:** Reorganization of civil commitment statutes

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### Overview

March 11, 2011, the Office of the Legislative Auditor published its program evaluation “Civil Commitment of Sex Offenders.” The evaluation included a recommendation to the commissioner to work with the revisor of statutes to separate statutes relating to civil commitment of sex offenders from those related civil commitment of other populations.

Laws 2011, chapter 102, article 6, section 1, instructed the commissioner to consult with the revisor of statutes and propose legislation that clearly organizes the civil commitment law and distinguishes it from other forms of civil commitment. This bill is that proposal.

### Section

- 1**      **Secure treatment facility.** Amends § 253B.02, subd. 18a. Modifies the definition of “secure treatment facility” to mean the Minnesota Security Hospital. Strikes references to the Minnesota sex offender program.
- 2**      **Administrative restriction.** Amends § 253B.02, subd. 24. Updates a cross-reference to chapter 253D, a new chapter being created in this bill containing laws related to sex offender commitment and treatment. Strikes language on policies and procedures that is moved to paragraph (g) in the following section.
- 3**      **Administrative restriction.** Amends § 253B.03, subd. 1a. Strikes the word “patient” and substitutes the word “committed person.” Adds paragraph (g), the language in existing law on policies and procedures regarding use of administrative restriction from § 253B.02, subd. 24.

## Section

- 4 **Correctional facilities.** Amends § 253B.045, subd. 1a. Strikes references to section 253B.185 and inserts “this chapter.”
- 5 **General.** Amends § 253B.092, subd. 1. Clarifies that this section on administration of neuroleptic medication also applies to individuals committed as a sexually dangerous person or a sexual psychopathic personality.
- 6 **Petition.** Amends § 253B.17, subd. 1. Clarifies the circumstances under which a patient may petition the court for relief.
- 7 **Sexually dangerous; sexual psychopathic personality.** Amends § 253B.185. Makes technical changes throughout this section to clarify that the section applies only to individuals pending commitment or committed to the Minnesota sex offender program. This section will be recodified in new chapter 253D.
- 8 **Petition; hearing.** Amends § 253B.19, subd. 2. Strikes paragraph (b) which will be obsolete upon enactment of new chapter 253D. Updates cross-references.
- 9 **Citation.** Creates § 253D.01. Provides that this chapter is the “Minnesota Commitment and Treatment Act: Sexually Dangerous Persons and Sexual Psychopathic Personalities.”
- 10 **Definitions.** Creates § 253D.02. Defines the terms “commissioner,” “committed person,” “committing court,” “executive director,” and “secure treatment facility.”
- 11 **General provisions.** Creates § 253D.03. Provides that § 253B.23 applies except where inconsistent with this chapter.
- 12 **Review board.** Creates § 253D.04. Instructs the commissioner to establish a review board for sex offender program facilities.
- 13 **Procedures upon commitment.** Creates § 253D.13. Requires sex offender program commitment procedures to comply with the provisions of § 253B.10.
- 14 **Rights of committed persons; generally.** Creates § 253D.17. Provides that persons committed under this chapter have the rights contained in §253B.03, except as limited by § 253D.19.
- 15 **Right to counsel.** Creates § 253D.20. Provides the individuals committed under this chapter have the right to be represented by an attorney at any proceeding under this chapter. Requires appointment of counsel unless the committed person or others provide counsel.
- 16 **Neuroleptic medication.** Creates § 253D.21. States that administration of neuroleptic medication must comply with the requirements of § 253B.092.
- 17 **Passes.** Creates § 253D.23. Provides that release on a pass is governed by § 253B.18, subdivisions 4a and 4b.

## Section

### **18 Judicial appeal panel.** Creates § 253D.28.

**Subd. 1. Rehearing and reconsideration.** Paragraph (a) lists the individuals and entities who may petition the judicial appeal panel for a rehearing and reconsideration of a recommendation made by the special review board.

Paragraph (b) provides that the petition must be filed with the Supreme Court within 30 days after the recommendation is mailed by the commissioner and that the hearing must be held within 180 days of the filing of the petition.

Paragraph (c) states that if no petition is filed, the judicial appeal panel shall issue an order adopting the recommendations of the special review board or shall set the matter for a hearing.

**Subd. 2. Procedure.** Paragraph (a) requires the Supreme Court to refer the petition for rehearing to the judicial appeal panel. Requires the chief judge of the panel to notify specified individuals of the time and place of the hearing at least 14 days prior to the hearing.

Paragraph (b) permits any person to oppose the petition. Lists parties to the proceeding and requires the parties to notify the judicial appeal panel and the other parties in writing whether they support or oppose the petition.

Paragraph (c) allows the panel to appoint examiners and adjourn as needed. Allows the parties to be present, to present witnesses, and to cross-examine witnesses.

Paragraph (d) requires the party petitioning for discharge or provisional discharge to present a prima facie case with competent evidence to show the person is entitled to the requested relief. If this burden is met, the opposing party by clear and convincing evidence must show that discharge or provisional discharge should be denied.

Paragraph (e) requires a party seeking transfer to establish by a preponderance of the evidence that transfer is appropriate.

**Subd. 3. Decision.** Requires a majority of the appeal panel to rule. Provides that no order for transfer, discharge, or provisional discharge shall be effective sooner than 15 days after it is issued.

**Subd. 4. Appeal.** Allows appeals as provided under § 253B.19, subd. 5.

### **19 Discharge; administrative procedures.** Creates § 253D.36. Provides that the administrative procedures established in § 253B.20 must be followed when an individual is discharged from commitment under this chapter.

### **20 Court rules.** States that nothing in this act changes the court rules governing the commitment and treatment act.

**Section**

- 21**      **Construction.** Provides that nothing in this act creates grounds for relief for persons committed under chapter 253B or its predecessors.
- 22**      **Revisor's instruction.** Provides detailed instructions to the revisor on renumbering statutory sections and correcting cross references.